

# EXHIBIT 1

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

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IN RE: TAXOTERE  
(DOCETAXE) PRODUCTS  
LIABILITY LITIGATION

CIVIL ACTION NO. 16-MD-2740 "N"  
NEW ORLEANS, LOUISIANA  
WEDNESDAY, AUGUST 30, 2017, 9:30 A.M.

THIS DOCUMENT RELATES TO:

ALL CASES

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TRANSCRIPT OF MOTION HEARING PROCEEDINGS  
HEARD BEFORE THE HONORABLE KURT D. ENGELHARDT  
UNITED STATES DISTRICT JUDGE

APPEARANCES

FOR THE PLAINTIFFS

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**OFFICIAL TRANSCRIPT**

09:59:14 1 As a threshold matter, just as the Court in *In*  
09:59:21 2 *re: Zofran* multi-district litigation, which is Multi-District  
09:59:24 3 Case Number 2657, noted when explaining the framework or the  
09:59:28 4 context within which to consider allegations of fraud within an  
09:59:33 5 MDL, "It is true that this case, like most MDL proceedings,  
09:59:37 6 employs the device of a master complaint supplemented by  
09:59:40 7 individual short form complaints that adopt the master  
09:59:45 8 complaint in whole or in part.

09:59:46 9 "It is also true that a master complaint could  
09:59:48 10 not possibly be expected to include every case-specific detail  
09:59:53 11 such as a particular misleading statement made by a particular  
09:59:56 12 sales representative to the physician of an individual  
10:00:00 13 plaintiff."

10:00:01 14 The court further explained that "the complaint  
10:00:03 15 in each action in this proceeding consists of the master  
10:00:06 16 complaint and the individual short form complaint, taken  
10:00:11 17 together." The Court in this case likewise considers, insofar  
10:00:15 18 as pleading is concerned, not only the Master Long Form  
10:00:19 19 Complaint, but also the short form complaints that have been  
10:00:22 20 and will be filed in this case to flesh out the allegations  
10:00:25 21 made with regard to particular plaintiffs.

10:00:27 22 While this Court will not allow a lower pleading  
10:00:32 23 standard in the matter generally purely because of the  
10:00:33 24 consolidated nature of these proceedings, it is necessary for  
10:00:35 25 the Court to recognize the limitations and restrictions on

plaintiffs' counsel in formulating allegations within a Master Long Form Complaint, as well as the administrative function of a master complaint.

However, with that being said, specific allegations, particularly with respect to any allegations of fraud, should be perfected within the short form complaints filed in the individual member cases.

However, also at this point in the litigation, allowing plaintiffs' claims in Count 1 and Counts 3 to 7 to proceed serves the goals of the MDL. Just as the Court noted in the *In re: Trasylol Product Liability Litigation*-- you can find that at 2009 Westlaw 577726 -- this Court finds that it is in the best interest of justice to allow these claims to go forward, and to more appropriately be addressed when we move to the summary judgment phase of the case.

Now, with respect to Counts 2 and 8, which allege strict liability for misrepresentation and breach of an express warranty respectively, the Court requires additional information from plaintiffs.

The defendants are correct in stating that the plaintiffs have not provided any express statement by the defendants that was either misleading or an express warranty and relied upon by a plaintiff for a particular group of plaintiffs.

The Court agrees that plaintiffs cannot state a